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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,005	03/11/2004	Jurgen Jolly	BE-124	5172

7590 07/14/2005
Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

EXAMINER

ALI, MOHAMMAD M

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/798,005	JOLLY, JURGEN	
	Examiner	Art Unit	
	Mohammad Ali	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8 and 10-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <ul style="list-style-type: none"> 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date <u>06/03/05</u>. | <ul style="list-style-type: none"> 4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____. |
|---|--|

Drawings

The objection to drawing is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1- 2, 6-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda et al., in view of Jolly (DE 10004772 A1). Kuroda et al., disclose an air conditioner and air conditioning method for a room comprising a flat cooling element 10 arranged within a wall 21 of a room. See Fig. 1, 17 and column 2, lines 36-44. Kuroda et al., disclose the invention substantially as claimed as stated above. However, Kuroda et al., do not disclose a ceiling mounted cooler arranged within a plaster layer, a pre-manufactured web comprised of carrier mat, a plurality of meandering, parallel, counter-flow cooling pipes Jolly teaches the use of a ceiling mounted cooler with screen mat with web and with pipes fastened to a ceiling by any

means and the height differences compensated by plastering, a plurality of meandering, parallel, counter-flow cooling pipes. (See Fig. 1 and 3 and the enclosed translated basic abstract) in a cooling system of a room for the purpose of conditioning the room.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air conditioning and air conditioning method of Kuroda et al., in view of Jolly such that ceiling mounted cooler including pre-manufactured carrier mat with webs and counter flow cooling pipes could be provided in order to condition the room.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda et al., in view of Jolly (DE 10004772 A1) as applied claim 11 above and further in view of Ito (JP 360029595 A). Kuroda et al., in view of Jolly disclose the invention substantially as claimed as stated above. However, Kuroda et al., in view of Jolly do not disclose protective film. Ito teaches the use protective film over cooling pipe for the purpose of protecting the pipe (See the translated title and the abstract). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air conditioning and air conditioning method of Kuroda et al., in view of Jolly and further in view of Ito such that protective film could be provided in order to protect the cooling pipe.

Response to Arguments

Applicant's arguments filed 06/03/05 have been fully considered but they are not persuasive. The Applicant argued, " Kuroda et al. do not disclose an air conditioning system having a flat cooling element arranged within a plaster layer of a wall of the

room, where the cooling element includes a pre-manufactured web comprised of carrier mat and plurality of meandering, parallel, counter-flow cooling pipes fastened to the carrier mat, and where the cooling pipes are spaced from one another so as to enable, at locations between the pipes, a bonding of plaster to a base to which it is applied, as in the presently claimed invention.” The Examiner disagrees. In view of the amendment, the examiner has changed the rejection from 102 to 103 with necessary justification as narrated above. The cooling means of Kuroda et al., is invariably flat as mentioned previously. The Applicant did not show any specific reason why the cooling element 10 of Kuroda et al., is not flat. Again the cooling element (cooling pipes) of Jolly is similar to the cooling pipes of the claimed invention. Therefore, the cooling element of Jolly is also flat. The combination of Jolly with Kuroda et al., makes it sense that the cooling element in combination is also flat. The other parts of the arguments have been specifically shown in the Figs. Have Jolly and also narrated in the translated abstract. Therefore, the rejections are proper. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is (571) 272-4806. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4834

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mohammad M. Ali
July 11, 2005